

6-21-01  
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
REQUEST FOR FILING (RULE 53(b)(1))

(DO NOT USE FOR CIPS)

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104  
PTO

Commissioner for Patents  
Washington, D.C. 20231

Sir:

Please file a  Continuation  Divisional application under 37 CFR 1.53(b)(1) of pending prior application of

Inventor: Klein et al.

App No: 09/193,834

Filed: 11/17/98

Title: Methods of Creating Constructs Useful for  
Introducing Sequences into Embryonic  
Stem Cells

Group Art Unit: 1632  
Examiner: Paras Jr., P.  
Deposit Account No. 50-1271  
Docket/Order No. MES-01-CON  
Parent Docket No. MES-01-DIV  
Date: June 19, 2001

Customer #2661

#6 *pre*  
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JC872 U.S. PRO  
09/885816  
06/19/01

1. To effect the above-requested filing today, enclosed is a copy of the prior application including:

a  43 Pages of the specification, claims and abstract  
b  10 Sheets of  informal /  formal drawings  
c  Copy of signed declaration or oath as originally filed in prior application enclosed  
d  No Declaration or fee is enclosed; this is a filing under Rule 53(f).

2  Prior application is assigned to DELTAGEN, INC. by Assignment recorded 02/08/99 at Reel/Frame 9749/0379.

3  Enclosed is an Assignment and cover sheet. Return recorded Assignment to the undersigned. (Assignments in parent must be refiled with new cover sheets if they are to be recorded in this continuing application.)

4  The power of attorney in the prior application is to DELTAGEN, INC., whose current address is below.

5  Address all future communications to DELTAGEN, INC., 1003 Hamilton Avenue, Menlo Park, CA 94025.

6  Amend the specification by inserting before the first line:--This is a  continuation  division of Application No. 09/193,834 filed 11/17/98 -- *Now Abandoned*

7.  It has been determined that this continuing application is entitled to small entity status.

8. Petition to extend the life of the above prior application to at least the date hereof  
 is being concurrently filed in that prior application.  
 was previously filed in that prior application.  
 is not necessary for co-pendency.

9.  **IDS:** Enclosed is Form PTO-1449 listing all documents cited by Applicant and the PTO in the parent application/s relied on under 35 USC 120 and referred to above. Per Rule 98(d) copies of those documents are not required now. Please consider those documents and advise that they have been considered in this new application by returning a copy of the enclosed Form PTO-1449 with the Examiner's initials in the left column per MPEP 609.

10.  Enclosed is a Rule 103(a) Petition to Suspend Action.

11.  Preliminary Amendment to be entered before fee calculation: (Do not amend here except to correct improper multiple dependencies or to cancel whole claims). Please cancel claims 1-50.

12.  Submission of **Sequence Listing** in accordance with **37 C.F.R. §§ 1.821-1.825**.  
 Paper Copy;  
 Computer Readable Copy – Located in Parent Application 09/193,834, Filed 11/17/98; and  
 Statement verifying Paper and Computer Readable Copy are identical.

FILING FEE: The following filing fee is based on claims as filed and changed by preliminary amendment in item 11:

13. Basic Filing Fee.....		\$ 345.	\$ 345.00
14. Total Claims:	minus 20 =	x 9. =	+ .00
15. Independent Claims:	minus 3 =	x 39. =	+ .00
16. Multiple dependent claim:		+ 135. =	+ .00
<b>TOTAL FILING FEE =</b>			<b>\$ 345.00</b>
17. If petition box is checked, add fee		+ 65.	.00
18. If "assignment" box is checked, add recording fee .....	+ 40.	+ 40.00	
19. TOTAL FEE: (carry forward to Item 24)			<b>\$ 390.00</b>

20.  The enclosed Preliminary Amendment is to be entered after assigning Serial Number.

ADDITIONAL FEE CALCULATION FOR PRELIMINARY AMENDMENT:

	Remaining claims after amendment	# of claims previously paid for	Present Extra		Additional fee
21. Total Claims:	<b>32</b>	minus 20 =	<b>15</b>	x 9. =	+ 135.00
22. Independent Claims:	<b>5</b>	minus 3 =	<b>2</b>	x 39. =	+ 78.00
23. If amendment adds multiple dependent claim for the first time:		+ 135. =		+ .00	
<b>ADDITIONAL FEE =</b>					<b>\$ 213.00</b>
24. Plus fee from item 18:					<b>390.00</b>
25. TOTAL FEE Charge Deposit Account #50-1271 <input checked="" type="checkbox"/> OR Check enclosed					<b>\$ 603.00</b>

CHARGE STATEMENT: The Commissioner is hereby authorized to charge any missing or insufficient fees, or credit any overpayment, to our Deposit Account/Order No. above, for which purpose a duplicate copy of this sheet is enclosed.

DELTAGEN, INC.

By Mariette A. Lapi  
MARIETTE A. LAPIZ, Reg. No. 44,202

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Express Mail Label:  
Date of Deposit:

EL 920946075 US  
June 19, 2001

I certify that this paper and listed enclosures are being deposited with the U.S. Post Office "Express Mail Post Office to Addressee" under 35 CFR 1.10 on the above date, addressed to Commissioner for Patents, Box Patent Application, Washington, D.C. 20231

JOYCE VOGEL